

Due 1/11/03 (Tues.)
 Wanted soon (1/10/30)

YMV

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

LPS: please search " "; if you find any that I have not marked, please see me. KG

DN Note

Gen. Cat.

1 AN ACT to amend 16.72 (2) (f) and 16.75 (1) (a) 1.; and to create 16.71 (7), 16.72
 2 (2) (g), 20.370 (2) (hg), 287.07 (5) and (6) and 287.17 of the statutes; relating
 3 to: the disposal of electronic equipment, producer responsibility for electronic
 4 devices that are discarded, ^{substances contained in electronic equipment,} state purchasing of electronic equipment, granting
 5 rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 16.71 (7) of the statutes is created to read:
 7 16.71 (7) The department, any other designated purchasing agent under sub.
 8 (1), and each authority other than the University of Wisconsin Hospitals and Clinics
 9 Authority, may not purchase ^{covered} electronic equipment, as defined in s. 287.17 (1) (a),
 10 ^{produced by} from a vendor that has violated s. 287.17 (3).

✓
analysis
insert

1 **SECTION 2.** 16.72 (2) (f) of the statutes is amended to read:

2 16.72 (2) (f) ~~In~~ Except as provided in par. (g), in writing specifications under
3 this subsection, the department, any other designated purchasing agent under s.
4 16.71 (1), and each authority, other than the University of Wisconsin Hospitals and
5 Clinics Authority, shall incorporate requirements relating to the recyclability and
6 ultimate disposition of products and, wherever possible, shall write the
7 specifications so as to minimize the amount of solid waste generated by the state,
8 consistent with the priorities established under s. 287.05 (12), and to minimize the
9 amount of hazardous waste generated by the state. All specifications under this
10 subsection shall discourage the purchase of single-use, disposable products and
11 require, whenever practical, the purchase of multiple-use, durable products.

12 **SECTION 3.** 16.72 (2) (g) of the statutes is created to read:

13 16.72 (2) (g) In writing specifications under this subsection pertaining to
14 covered electronic equipment, as defined in s. 287.17 (1) (a), the department, any
15 other designated purchasing agent under s. 16.71 (1), and each authority, other than
16 the University of Wisconsin Hospitals and Clinics Authority, shall incorporate terms
17 requiring the vendor to take possession of or otherwise properly dispose of the
18 ^{covered} electronic equipment after the ^{covered electronic} equipment is taken out of service by the department,
19 designated purchasing agent, or authority, as applicable.

20 **SECTION 4.** 16.75 (1) (a) 1. of the statutes, as affected by 2003 Wisconsin Act 33,
21 is amended to read:

22 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
23 materials, supplies, equipment, and contractual services to be provided to any
24 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
25 (6), (7), (8), (9), and (10m) and ss. 16.71 (7), 16.73 (4) (a), 16.751, 16.754, 16.964 (8),

50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

SECTION 5. 20.370 (2) (hg) of the statutes is created to read:

20.370 (2) (hg) *Producer responsibility for electronic waste.* All moneys received under s. 287.17 (6) and (14) for the cost of administering the electronic waste program under ss. 287.07 (5) ~~and (6)~~ and 287.17.

SECTION 6. 287.07 (5) ~~and (6)~~ of the statutes ^{is} created to read:

287.07 (5) ELECTRONIC DEVICES. Beginning on January 1 of the first year that begins at least 365 days after the effective date of this subsection [revisor inserts date], no person may dispose of any of the following in a solid waste disposal facility:

- (a) A television ^{computer monitor,} or a video display ^{other} device
- (b) A computer monitor.
- (c) A ^{printer} computer, including a portable computer
- (d) A ^{printer} optical scanner
- (e) A mobile telephone.
- (f) A rechargeable battery from a mobile telephone or other portable electronic device.

(6) HAZARDOUS ELECTRONIC WASTE. (a) In this subsection:

1. "Electronic equipment" has the meaning given in s. 287.17 (1) (c).
2. "Hazardous electronic waste" means a piece of electronic equipment, a component of electronic equipment, or a material removed from electronic equipment if, using the toxicity characteristic leaching procedure specified in 40

CFR 261.24, the extract from a representative sample of the electronic equipment, component, or material contains any of the contaminants listed in 40 CFR 261.24, table 1, at a concentration equal to or greater than the value given in that table.

(b) Beginning on the effective date under s. 287.17 (2) ~~(b)~~, no person may do any of the following:

1. Dispose of hazardous electronic waste in a solid waste disposal facility.
2. Convert hazardous electronic waste into fuel.
3. Burn hazardous electronic waste in a solid waste treatment facility.

SECTION 7. 287.17 of the statutes is created to read:

287.17 Producer accountability for electronic waste. (1) DEFINITIONS.

In this section:

(a) "Covered electronic equipment" means ^{any of the following} ~~electronic equipment that contains one or more of the following substances:~~

1. Lead.
2. Mercury.
3. Cadmium.
4. Beryllium.
5. Hexavalent chromium.
6. Brominated flame retardants.
7. Any other substance specified by the department under sub. (12).

(b) "Covered electronic waste" means covered electronic equipment that has ^{Insert 4-22} ~~been discarded~~. "Covered electronic waste" does not include ^{covered} ~~electronic equipment~~ that has been donated for reuse or sold for reuse.

(c) "Electronic equipment" means equipment that requires electric current or electromagnetic fields to function and that contains a circuit board.

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4-25 ✓

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(d) "Orphan covered waste" means covered electronic equipment to which either of the following applies:

1. If the covered electronic equipment is discarded on or after the effective date under sub. (2) ~~(b)~~, the covered electronic equipment is discarded in this state at a time when the producer of the covered electronic equipment is out of business or does not sell covered electronic equipment in this state.

2. If the covered electronic equipment is discarded before the effective date under sub. (2) ~~(b)~~, the producer of the covered electronic equipment is out of business or does not sell covered electronic equipment in this state on the effective date under sub. (2) ~~(b)~~.

(e) "Producer" means a person, other than a person that remanufactures and resells covered electronic waste, that does any of the following:

1. Manufactures and sells covered electronic equipment under its own brand.

2. Manufactures and sells covered electronic equipment without affixing a brand.

3. Resells covered electronic equipment manufactured by others under the person's own brand.

(f) "Program" means the actions that are taken to carry out a plan approved under sub. (4).

(g) "Recycling" means processing waste materials to prepare them to be used for the same or a different use. "Recycling" does not include burning waste with or without energy recovery.

(h) "Reuse" means to use covered electronic equipment or a component of covered electronic equipment for its original use.

^{Insert 5-24}
(2) EFFECTIVE DATE (a) The attorney general shall determine when legislation substantially similar to subs. (3) to (14) is adopted by states whose total population,

including this state's population, equals at least 10% of the population of the United States, based on the most recent federal decennial census. The attorney general shall notify the department and publish a class 1 notice, under ch. 985, of the determination and give any other notice of the determination that the attorney general determines is appropriate.

(b) The effective date for subs. (3) to (14) and s. 287.07 (6) is the first day of the 4th month beginning after the attorney general publishes the notice under par. (a).

(c) The determination of the attorney general under par. (a) is subject to judicial review.

(3) PLAN. (a) Except as provided under sub. (13), no later than the first day of the 6th month beginning after the effective date under sub. (2) [↓] a producer ^{whose} ^{is sold} ~~that~~ sells covered electronic equipment in this state shall submit to the department a plan that includes all of the following:

1. Provisions, designed to achieve the performance requirements in sub. (7) (a), under which the producer finances the collection, transportation, and reuse, recycling, treatment, or disposal, in a manner that is consistent with all requirements under state law, ^{the producer's} ^{first sale retail after the effective} ~~of covered electronic equipment sold by the producer~~ ^{date} ^{under} ^{sub. (2)} that is discarded in this state.

2. Provisions, designed to achieve the performance requirements in sub. (7) (b), under which the producer finances the collection, transportation, and reuse, recycling, treatment, or disposal, in a manner that is consistent with all requirements under state law, ^{historic covered waste and} ~~of the producer's share, as determined under sub. (7)~~ (c), ~~of orphan covered waste.~~

3. Provisions to ensure compliance with the worker protection requirements in sub. (7) (d) and (e).

- 1 4. Provisions for meeting the labeling requirements in sub. (8).
2 5. Provisions for meeting the consumer education requirements in sub. (9).
3 6. Provisions for meeting the requirements for providing information to
4 recyclers in sub. (10).

5 7. A description of actions that will be implemented by the producer if the
6 provisions under subd. 1. or 2. fail to achieve the performance requirements in sub.
7 (7) (a) or (b).

8 8. Documentation, ^{such as contracts, letters of intent, or memoranda of understanding,} that all persons whose participation is needed to implement
9 the provisions under subds. 1. and 2. are willing to participate.

10 9. One of the following:

11 a. Information concerning the number of ^{the producer's} televisions sold by the producer in this
12 state during each of the 10 years before the year in which the producer submits the
13 plan and information concerning the number and type of ^{the producer's} computers, mobile
14 telephones, and other pieces of covered electronic equipment sold by the producer in
15 this state during each of the 5 years before the year in which the producer submits
16 the plan.

17 b. A statement that the producer prefers to have the department estimate
18 under sub. (7) (c) the ^{the producer's} sales of covered electronic equipment in this state.

19 ^{Insert 7-20} 10. ^{the producer's} provisions ^{that ensure all of the following: a. That} forbidding the export of covered electronic waste collected
20 under the plan to any country that is not a member of the Organization for Economic

21 Cooperation and Development.

22 (b) A producer may not include in a plan under par. (a) a requirement that
23 persons who wish to discard covered electronic equipment pay a fee to discard the ^{at the time that the covered electronic} equipment
24 covered electronic equipment, but may require those persons to deliver covered ^{is} equipment ^{relinquished,}
25 electronic equipment to a collection point.

(c) A producer may provide for a person other than the producer to implement portions of a plan under par. (a) and may provide for implementation of portions of a plan jointly with other producers.

(4) REVIEW OF PLAN. The department shall review a plan submitted under sub. (3) ^{within 3 months of its submission} to determine whether the plan complies with the requirements of that subsection.

^{within 30 days after completing its review} The department shall notify a producer of any deficiencies in the producer's plan.

If an original or modified plan complies with the requirements of sub. (3), the department shall approve the plan. If a producer fails to remedy deficiencies in the producer's plan by a deadline set by the department, the department shall disapprove the plan and ^{no person} the producer may ~~not~~ ^{the producer's} sell covered electronic equipment in this state.

(5) IMPLEMENTATION. Upon approval under sub. (4) of a producer's plan, the producer shall begin to implement the plan. A producer shall fully implement its plan no more than 12 months after the department approves the plan under sub. (4).

(6) PROOF OF FINANCIAL RESPONSIBILITY. Except as provided under sub. (13), ^{no person} a producer's producer may ~~not~~ sell covered electronic equipment in this state beginning on the

first day of the 12th month beginning after the effective date under sub. (2) [✓] or on the first day of the 2nd month beginning after the approval of the producer's plan

under sub. (4), whichever is earlier, unless the producer files with the department a surety bond ^{or other form of financial assurance acceptable to the department} in an amount equal to \$300,000 or 10% of the dollar amount of the sales

^{the producer's} of covered electronic equipment ^{→ percent} by the producer in this state in the year before the producer files the bond, whichever is greater, ^{established in favor of or made payable to} conditioned on the performance by the

producer ~~and~~ of the requirements of this section.

the department to cover costs incurred because of any violation

(7) PERFORMANCE REQUIREMENTS. (a) To achieve the performance requirements for ^{a producer's} covered electronic equipment ^{that is at retail} sold ^{after the effective date under sub. (2) and} by the producer that is discarded in this state, a producer must demonstrate all of the following:

1. That, no later than the first day of the 24th month beginning after approval of the producer's plan under sub. (4), the number of pieces of ^{the producer's} covered electronic equipment ^{at retail} collected through the producer's program annually equals at least ⁵⁰ ~~75%~~ of the number of pieces of covered electronic equipment ^{the producer's} produced by the producer that are sold ^{at retail} in this state annually and that the program annually results in the reuse or recycling of at least ⁵⁰ ~~65%~~ ^{A percent} of the components and materials contained in the covered electronic equipment that is collected.

2. That, no later than the first day of the ⁴⁸ ~~60~~th month beginning after approval of the producer's plan under sub. (4), the number of pieces of ^{the producer's} covered electronic equipment ^{at retail} collected through the producer's program annually equals at least ⁷⁵ ~~90%~~ of the number of pieces of ^{the producer's} covered electronic equipment ^{at retail} produced by the producer that are sold in this state annually and that the program annually results in the reuse or recycling of at least ⁷⁵ ~~95%~~ ^{A percent} of the components and materials contained in the covered electronic equipment that is collected.

(b) To achieve the performance requirements for ^{historic covered waste and} orphan covered waste, a producer must demonstrate ^{all of} the following:

1. That, no later than the first day of the 24th month beginning after approval of the producer's plan under sub. (4), the amount of ^{historic covered waste and} orphan covered waste collected through the producer's program annually equals at least the producer's share, determined under par. (c), of 2 kilograms per resident of this state and that the program annually results in the reuse or recycling of at least the producer's share of 1.5 kilograms of ^{historic covered waste and} the orphan covered waste.

1 2. That, no later than the first day of the 60th month beginning after approval
2 of the producer's plan under sub. (4), the amount of ^{historic covered waste and} orphan covered waste collected
3 through the producer's program annually equals at least the producer's share,
4 determined under par. (c), of 4 kilograms per resident of this state and that the
5 program annually results in the reuse or recycling of at least the producer's share
6 of 3.5 kilograms of the ^{historic covered waste and} orphan covered waste.

7 (c) The department shall determine each producer's share for the purposes of
8 par. (b) based on the producer's market share of sales of covered electronic
9 equipment. If a producer does not provide the information under sub. (3) (a) 9. a.,
10 the department shall increase its estimate of the producer's market share by 10%, ^{per cent}
11 and adjust its estimates of the market shares of producers who provide that
12 information accordingly. The department may adjust its determinations of market
13 share annually.

14 (d) A producer shall include in its plan submitted under sub. (3) provisions to
15 ensure that employers of workers who perform activities necessary to collect,
16 transport, reuse, recycle, treat, or dispose of covered electronic waste under the
17 producer's program protect the health and safety of those workers by doing all of the
18 following:

19 1. Providing to the department of workforce development evidence of
20 compliance with state and federal occupational safety and health requirements.

21 2. Performing monitoring of the employers' facilities for all of the substances
22 under sub. ^{15 ✓} (A) (a) 1. to ^{8 ✓} 7. and reporting the results of the monitoring to the
23 department of workforce development every 3 months.

of the

1 3. Performing human health monitoring of all workers, including blood testing
2 for lead, bromine, chlorine, and mercury compounds, and reporting the results of the
3 monitoring to the department of workforce development every 3 months.

4 (e) A producer shall include in its plan submitted under sub. (3) provisions to
5 ensure that prison labor is not used *in this state* to collect, transport, reuse, recycle, treat, or
6 dispose of covered electronic waste under the producer's program unless all of the
7 following apply:

8 1. The prisoners are provided with compensation equivalent to market wages
9 for the work performed.

10 2. The prisoners are afforded protections that are at least equal to those
11 provided under this state's occupational health and safety laws and rules, in addition
12 to the protections under par. (d).

13 (8) LABELING. Beginning on the first day of the 12th month beginning after the
14 date on which a producer's plan is approved under sub. (4), *no person* a producer may ~~not~~ sell
15 *the producer's* covered electronic equipment in this state unless the equipment is labeled with the
16 following information or is accompanied by written material to be provided to the
17 user of the equipment that contains the following information:

18 (a) A description of which of the substances under sub. ¹⁵ (a) 1. to ⁸ are
19 contained in the covered electronic equipment and of the parts that contain those
20 substances.

21 (b) A description of the prohibitions in s. 287.07 (5) ~~and (6)~~.

22 (c) A toll-free telephone number or the address of an Internet site that users
23 of covered electronic equipment can use to obtain information and instructions about
24 *discarding* disposing of the covered electronic equipment through the producer's program.

(9) CONSUMER EDUCATION. A producer shall include in a plan submitted under sub. (3) provisions for educational activities that are designed to ensure that users of covered electronic equipment understand all of the following:

(a) The prohibitions in s. 287.07 (5) ~~and (6)~~.

(b) The potential effects on human health and the environment of the substances listed in sub. (15) (a) 1. to 8 ✓ and the dangers of improper disposal of covered electronic equipment.

(c) The available options for discarding covered electronic equipment, including those under the producer's program.

(d) The role of users of covered electronic equipment in achieving the reuse, recycling, and other proper disposal of covered electronic equipment.

(10) INFORMATION FOR RECYCLERS. A producer shall include in a plan submitted under sub. (3) provisions for providing, to persons who recycle or disassemble the producer's covered electronic waste, information that is needed to ensure that the recycling ^{or disassembly} is conducted in a manner that protects worker health and safety and that is environmentally sound. In the plan, a producer shall commit itself to providing, to persons who recycle or disassemble the producer's covered electronic waste, the information required by this subsection for a new model of covered electronic equipment ^{immediately upon} ~~within 12 months of~~ the introduction of the new model.

(11) REVIEW OF PROGRAM. (a) Within 12 months of approval of its plan and annually thereafter, a producer shall submit a report that demonstrates whether the producer's program is consistent with the approved plan and, for reports submitted after the performance requirements under sub. (7) (a) and (b) apply, whether the producer has achieved the performance requirements. In its report, a producer shall ^{provide documentation to} show whether its program has resulted in the export of covered electronic waste ^{to}

that is inconsistent with sub. (3)(a) 10.

① ~~any country that is not a member of the Organization for Economic Cooperation and~~
② ~~Development.~~

3 (b) The department shall review each report under par. (a) within 6 months of
4 its submission. Within 3 months after completing its review, the department shall
5 notify a producer of any deficiency in its program. If a producer fails to remedy any
6 deficiencies in its program by a deadline set by the department, the department shall
⑦ notify the producer that its program is disapproved and ^{no person} the producer may ~~not~~ sell
⑧ ^{the producer's} covered electronic equipment in this state.

9 (c) 1. No later than 20 months after the approval of a producer's plan under sub.
10 (4), the producer shall submit to the department a proposal for the design and
11 implementation of independent polling of awareness of the producer's program

⑫ among residents of this state. The department shall notify a producer of any
13 deficiencies in the producer's proposal. If the department determines that an
14 original or modified proposal will accurately measure awareness of the producer's
15 program, the department shall approve the proposal. If a producer fails to remedy
16 any deficiencies in the producer's proposal by a deadline set by the department, the
⑬ department shall disapprove the proposal and ^{no person} the producer may ~~not~~ sell ^{the producer's} covered

18 electronic equipment in this state. A group of producers may satisfy the requirement
19 ^{move} in this subdivision through a joint submission.

20 2. A producer shall conduct the polling provided for in its proposal approved
21 under subd. 1. No later than 4 months after approval of the proposal, the producer
22 shall report the results of the polling to the department.

23 3. If the results reported under subd. 2. show that less than 85% of the residents
24 of this state are aware of the producer's program, the producer shall submit to the
25 department, within 3 months of reporting the polling results, a proposal for

1 additional educational activities about its program and shall implement the
2 proposal.

3 4. No later than 12 months after submittal of a proposal under subd. 3., a
4 producer shall provide evidence to the department of the percentage of state
5 residents who are aware of the producer's program. If the evidence shows that less
6 than 85% of the residents of this state are aware of the producer's program, the
7 producer is subject to a forfeiture equal to \$10,000 times the difference between 85%
8 and the percentage of state residents who are aware of the producer's program.

9 (d) A producer shall make a report submitted under par. (a) available to the
10 public on the Internet for 3 years after it submits the report and shall allow the
11 department to place a link to the report on the department's Internet site.

12 (12) ^{Covered electronic equipment} ~~ADDITIONAL HAZARDOUS SUBSTANCES~~ The department may promulgate
13 ^{kinds of electronic equipment the disposal of which may be} rules specifying ~~substances that are~~ harmful to human health or the environment,

14 ^{kinds of electronic equipment} in addition to the ~~substances~~ in sub. (1) (a) 1. to 9., that ^{are} ~~cause electronic equipment~~

15 ^{to be} ~~are~~ considered ^{to be} covered electronic equipment. The department shall specify all of
16 the following in a rule promulgated under this subsection:

17 (a) A date, at least 6 months after the rule is promulgated, by which a producer
18 ^{the kind of} of electronic equipment ^{containing the substance} must submit to the department a
19 plan under sub. (3) for the ^{kind of} electronic equipment or proposed modifications to add the
20 ^{kind of} electronic equipment to a plan previously approved under sub. (4).

21 (b) A date, at least 6 months after the rule is promulgated, by which a producer
22 ^{the kind of} of electronic equipment ^{containing the substance} must file with the department
23 proof of financial responsibility under sub. (6) if the producer has not previously filed
24 that proof.

(c) A date, at least 12 months after the rule is promulgated, by which a producer of ^{the kind of} electronic equipment ~~containing the substance~~ must implement the program for ^{the kind of} electronic equipment ~~containing the substance~~.

(13) WAIVER. A producer may apply to the department for a waiver from the requirements of subs. (3) to (11) if the dollar amount of annual sales in this state of ^{the producer's} covered electronic equipment ~~by the producer~~ is less than 0.1 ^{percent} of the dollar amount of annual sales in this state of all covered electronic equipment. The department may impose conditions on a waiver under this subsection. ^{Insert 15-8 ✓} A producer ~~that~~ violates conditions imposed on a waiver under this subsection ~~may not sell covered electronic equipment in this state.~~

(14) FEES. (a) The department shall promulgate rules specifying fees to be paid by producers when they submit plans under sub. (3) and periodic fees to be paid by producers with approved plans. The department shall base a producer's fees on the amount of ^{the producer's} covered electronic equipment sold in this state ~~by the producer~~ and shall design the fees to cover the costs of administering this section and s. 287.07 (5) ~~and~~.

(b) The department may promulgate a rule specifying fees for granting waivers under sub. (13).

(15) RESTRICTIONS ON HAZARDOUS SUBSTANCES IN ELECTRONIC EQUIPMENT. (a) Except as provided in par. (b), beginning on the first day of the 60th month beginning after the effective date under sub. (2) ^{Insert 15-21 (person) covered} ~~no producer~~ may sell electronic equipment in this state that contains any of the following:

1. Lead.
2. Mercury.
3. Cadmium.
4. Beryllium.

1 5. ~~4~~ Hexavalent chromium.

2 6. ~~5~~ Brominated flame retardants.

3 2. ~~6~~ Polyvinyl chloride.

Insert
16-3⁴ →

4 (b) The department may grant a limited term exemption from the prohibition
5 under par. (a) with respect to a substance if a producer demonstrates to the
6 department that it is technically impossible to substitute a less harmful alternative
7 for the substance. The department shall limit the length of an exemption to ensure
8 that producers have an incentive to identify a less harmful alternative. The
9 department may rescind an exemption when the department determines that it is
10 possible to substitute a less harmful alternative for the substance.

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16-10

(END)

DNate

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/lins
RCT.....

Analysis insert ✓

This bill makes numerous changes in the law related to the disposal of electronic equipment.

Producer responsibility

This bill requires a producer of electronic equipment to implement a program under which the producer finances the collection and recycling or disposal of certain kinds of electronic equipment sold in this state. The kinds of electronic equipment that must be collected are televisions, computer monitors, other video display devices, computers, printers, optical scanners, and mobile telephones (covered electronic equipment). The bill authorizes the Department of Natural Resources (DNR) to promulgate rules adding additional kinds of electronic equipment to this list. If a producer fails to implement a program that satisfies the requirements of the bill, the bill prohibits the sale of the producer's covered electronic equipment in this state.

A producer is responsible for financing the collection and disposition of its own covered electronic equipment that is sold in this state after the requirement takes effect and a portion of all covered electronic equipment, without regard to who produced the equipment, that was sold in this state before the requirement takes effect (historic and orphan covered waste). The amount of historic and orphan historic waste for which a producer is responsible is based on the producer's market share.

implement to The bill requires a producer to submit a plan describing its proposed program to DNR no later than 30 months after this bill becomes law. A plan must satisfy a number of requirements in addition to ^{containing} ~~contain~~ the ~~provisions~~ that the producer ^{51st} ~~proposes to take to~~ comply with the requirements for financing the collection and disposition of covered electronic equipment. The plan must show how the producer will comply with requirements for the protection of workers who participate ~~in the~~ in the collection and disposition of covered electronic equipment, how the producer will comply with labeling and consumer education requirements, and how the producer will ensure that covered electronic equipment will not be exported to a country that is not a member of the Organization for Economic Cooperation and Development, except that covered electronic equipment may be exported if it is in working order and destined for direct reuse. A plan must also describe the actions that the producer will take if the plan, once implemented, fails to achieve the performance requirements set forth in the bill for the amount of covered electronic equipment collected and the amount of components and materials that are reused or recycled.

The bill requires DNR to review the plan submitted by a producer and, within four months of receiving the plan, approve the plan or notify the producer of any deficiencies. A producer must begin to implement its plan upon approval and must fully implement the plan within a year after approval. Once DNR approves a producer's plan or within three years after the bill becomes law, whichever is earlier,

the producer must also provide to DNR proof of financial responsibility for complying with the bill's requirements. The amount of the proof of financial responsibility is based on the sales of the producer's covered electronic equipment in this state, but may not be less than \$300,000. The bill also requires a producer to conduct public polling to determine public awareness of the producer's program.

The bill requires a producer to submit to DNR an annual report on its program showing whether the program is consistent with the approved plan and whether the producer has achieved the performance requirements set forth in the bill. DNR must review each report and, within nine months of receipt of the report, notify the producer of any deficiency in its program. If a producer fails to remedy deficiencies by a deadline set by DNR, DNR notifies the producer that its program is disapproved and no person may sell the producer's covered electronic equipment in this state.

The bill allows a producer to work jointly with other producers to comply with the bill's requirements. The bill also authorizes DNR to grant a waiver from the requirements in the bill to a producer with sales in this state that have a dollar value of less than 0.1% of the dollar value of all sales of covered electronic equipment in this state.

Prohibition on hazardous substances in electronic equipment

This bill prohibits the sale in this state of covered electronic equipment that contains certain substances beginning seven years after this bill becomes law, unless DNR grants an exemption from the prohibition for a specific substance. The substances are lead, mercury, cadmium, beryllium, hexavalent chromium, brominated flame retardants, and polyvinyl chloride. DNR may promulgate rules adding substances to this list. DNR may grant an exemption from the prohibition for a limited term if a producer demonstrates that it is technically impossible to substitute a less harmful alternative.

Landfill ban

This bill prohibits the disposal in landfills of televisions, computer monitors, other video display devices, computers, printers, optical scanners, mobile telephones, and rechargeable batteries from mobile telephones or other portable electronic equipment. The prohibition takes effect on January 1 of the first year that begins at least a year after the bill becomes law.

State purchasing

This bill prohibits a state agency from purchasing covered electronic equipment produced by a producer that fails to submit a plan to DNR for the collection and disposition of covered electronic waste by the deadline established in the bill. The bill also requires the Department of Administration and other state agencies, in writing specifications for the purchase of covered electronic equipment, to incorporate terms requiring the vendor to take possession of or otherwise properly dispose of the equipment after the equipment is taken out of service.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert 4-13 ✓

1. Televisions, computer monitors, and other video display devices.
2. Computers, including portable computers.
3. Printers.
4. Optical scanners.
5. Mobile telephones.
6. Any other kind of electronic equipment specified by the department under sub. (12).

Insert 4-22

No 9 taken out of service or has been relinquished for recycling or disposal but has not been recycled or finally disposed of.

Insert 4-25

(cm) "Historic covered waste" means covered electronic equipment that was first sold at retail before the effective date under sub. (2) and that has become electronic waste, the producer of which is in business on the effective date under sub. (2).

Insert 5-1

No 9 that was first sold at retail before the effective date under sub. (2) and that has become electronic waste, the producer of which is not in business on the effective date under sub. (2).

Insert 5-24

No 9 The effective date for subs. (3) to (14) is the first day of the 25th month beginning after the effective date of this subsection [revisor inserts date].

Insert 7-20

No 9 that contains a substance listed in sub. (15) (a) 1. to 8. and that is not in working order is not exported

Insert 7-21 ✓

b. That covered electronic waste collected under the plan that contains a substance listed in sub. (15) (a) 1. to 8. and that is in working order is not exported to any country that is not a member of the Organization for Economic Cooperation and Development unless the producer or a person participating in the producer's program certifies to the department that the covered electronic waste is in working order and is destined for direct reuse.

11. Provisions to ensure that opportunities and locations for collection of covered electronic waste are convenient for all persons in this state.

✓ **Insert 9-17**

3. That, no later than the first day of the 60th month beginning after approval of the producer's plan under sub. (4), the number of pieces of the producer's covered electronic equipment sold at retail after the effective date under sub. (2) that are collected through the producer's program annually equals at least 90% of the number of pieces of the producer's covered electronic equipment that are sold at retail in this state annually and that the program annually results in the reuse or recycling of at least 95% percent of the components and materials contained in the covered electronic equipment that is collected.

Insert 15-8 ✓

(No 9) No person may sell in this state a producer's electronic equipment if the

Insert 15-21

(No 9) or, for a substance specified under subd. 8., beginning on the date specified under par. (c), ✓

Insert 16-3 ✓

8. Any other substance specified by the department under par. (c). ✓

Insert 16-10

(c) The department may promulgate rules specifying substances that are harmful to human health or the environment, in addition to the substances in par.

(a) 1. to ~~§.~~⁷, that may not be contained in covered electronic equipment sold in this state. In a rule promulgated under this subsection, the department shall specify a date, at least 6 months after the rule is promulgated, after which covered electronic equipment containing the substance may not be sold in this state.

(16) PENALTIES. Any producer that violates this section may be required to forfeit not more than \$10,000 for each violation. Any person other than a producer that violates this section is not subject to a penalty.

SECTION 1. 287.97 of the statutes is amended to read:

287.97 Penalties. Any person who violates this chapter, except s. 287.07, 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under s. 287.07, 287.08, 287.17, or 287.81, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

History: 1989 a. 335; 1995 a. 227 s. 922; Stats. 1995 s. 287.97.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/1dn

RCT:.....

King

This is the redraft of the proposal dealing with electronic waste. It was necessary to make a number of changes in the draft to carry out the redraft instructions, so please review this draft carefully. In particular, please look carefully at proposed s. 287.17 (12). ✓

For the provision about documentation of exports of covered electronic waste, see proposed s. 287.17 (11) (a). ✓ (I)

With the modifications concerning orphan and historic waste, I believe that no one would be responsible for collecting covered electronic equipment sold after the effective date if the producer goes out of business after the effective date. Is that your intent? Also, no one would be responsible for collecting equipment sold after the effective date that was produced by a producer that gets a waiver. ✓

As requested, this draft provides penalties for producers that violate proposed s. 287.17 but not for anyone else who violates that section. This means that if a retailer sells a piece of covered electronic equipment after the sale of equipment produced by the producer of that equipment is prohibited by the draft, the retailer is not subject to any penalty. A retailer that sold covered electronic equipment containing a banned substance would also not be subject to any penalty. If the producer itself does not sell its electronic equipment in this state, the state might not be able to impose a penalty on the producer either. ✓

Please let me know if you have any questions or want any changes to the draft.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1238/1dn
RCT:kmg:jf

November 11, 2003

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
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Tradewell, Becky

From: Miller, Mark
Sent: Monday, December 08, 2003 9:31 AM
To: Tradewell, Becky
Cc: Kuhn, Jamie; Zehren, David
Subject: LRB 1238, E-Waste

Becky,

The final version looks good. Page 12, line 24 should refer to compounds containing chlorine, bromine, and mercury. I'm concerned that the way it is drafted might be interpreted as referring to the chemicals chlorine and bromine. If you agree that this might be misinterpreted, please revise appropriately. I'm lining up co-authors and plan to circulate for cosponsorship NLT Wednesday this week.

Mark

Mark Miller

48th Assembly District
P.O. Box 8953
Madison, WI 53708
Phone 608.266.5342, FAX 608.282.3648
rep.miller@legis.state.wi.us

12/08/2003



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1238/2
RCT&RJM:kmg:jf
rhr

Tues. a.m.

2003 BILL

See p. 12

1 AN ACT *Sen. Cat.* to amend 16.72 (2) (f), 16.75 (1) (a) 1. and 287.97; and to create 16.71
2 (7), 16.72 (2) (g), 20.370 (2) (hg), 287.07 (5) and 287.17 of the statutes; relating
3 to: the disposal of electronic equipment, producer responsibility for electronic
4 devices that are discarded, substances contained in electronic equipment, state
5 purchasing of electronic equipment, granting rule-making authority, making
6 an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the law related to the disposal of electronic equipment.

Producer responsibility

This bill requires a producer of electronic equipment to implement a program under which the producer finances the collection and recycling or disposal of certain kinds of electronic equipment sold in this state. The kinds of electronic equipment that must be collected are televisions, computer monitors, other video display devices, computers, printers, optical scanners, and mobile telephones (covered electronic equipment). The bill authorizes the Department of Natural Resources (DNR) to promulgate rules adding additional kinds of electronic equipment to this list. If a producer fails to implement a program that satisfies the requirements of the bill, the bill prohibits the sale of the producer's covered electronic equipment in this state.

BILL

A producer is responsible for financing the collection and disposition of its own covered electronic equipment that is sold in this state after the requirement takes effect and a portion of all covered electronic equipment, without regard to who produced the equipment, that was sold in this state before the requirement takes effect (historic and orphan covered waste). The amount of historic and orphan historic waste for which a producer is responsible is based on the producer's market share.

The bill requires a producer to submit a plan describing its proposed program to DNR no later than 30 months after this bill becomes law. A plan must satisfy a number of requirements in addition to containing the provisions that the producer proposes to implement to comply with the requirements for financing the collection and disposition of covered electronic equipment. The plan must show how the producer will comply with requirements for the protection of workers who participate in the collection and disposition of covered electronic equipment, how the producer will comply with labeling and consumer education requirements, and how the producer will ensure that covered electronic equipment will not be exported to a country that is not a member of the Organization for Economic Cooperation and Development, except that covered electronic equipment may be exported if it is in working order and destined for direct reuse. A plan must also describe the actions that the producer will take if the plan, once implemented, fails to achieve the performance requirements set forth in the bill for the amount of covered electronic equipment collected and the amount of components and materials that are reused or recycled.

The bill requires DNR to review the plan submitted by a producer and, within four months of receiving the plan, approve the plan or notify the producer of any deficiencies. A producer must begin to implement its plan upon approval and must fully implement the plan within a year after approval. Once DNR approves a producer's plan or within three years after the bill becomes law, whichever is earlier, the producer must also provide to DNR proof of financial responsibility for complying with the bill's requirements. The amount of the proof of financial responsibility is based on the sales of the producer's covered electronic equipment in this state, but may not be less than \$300,000. The bill also requires a producer to conduct public polling to determine public awareness of the producer's program.

The bill requires a producer to submit to DNR an annual report on its program showing whether the program is consistent with the approved plan and whether the producer has achieved the performance requirements set forth in the bill. DNR must review each report and, within nine months of receipt of the report, notify the producer of any deficiency in its program. If a producer fails to remedy deficiencies by a deadline set by DNR, DNR notifies the producer that its program is disapproved and no person may sell the producer's covered electronic equipment in this state.

The bill allows a producer to work jointly with other producers to comply with the bill's requirements. The bill also authorizes DNR to grant a waiver from the requirements in the bill to a producer with sales in this state that have a dollar value of less than 0.1 percent of the dollar value of all sales of covered electronic equipment in this state.

BILL***Prohibition on hazardous substances in electronic equipment***

This bill prohibits the sale in this state of covered electronic equipment that contains certain substances beginning seven years after this bill becomes law, unless DNR grants an exemption from the prohibition for a specific substance. The substances are lead, mercury, cadmium, beryllium, hexavalent chromium, brominated flame retardants, and polyvinyl chloride. DNR may promulgate rules adding substances to this list. DNR may grant an exemption from the prohibition for a limited term if a producer demonstrates that it is technically impossible to substitute a less harmful alternative.

Landfill ban

This bill prohibits the disposal in landfills of televisions, computer monitors, other video display devices, computers, printers, optical scanners, mobile telephones, and rechargeable batteries from mobile telephones or other portable electronic equipment. The prohibition takes effect on January 1 of the first year that begins at least a year after the bill becomes law.

State purchasing

This bill prohibits a state agency from purchasing covered electronic equipment produced by a producer that fails to submit a plan to DNR for the collection and disposition of covered electronic waste by the deadline established in the bill. The bill also requires the Department of Administration and other state agencies, in writing specifications for the purchase of covered electronic equipment, to incorporate terms requiring the vendor to take possession of or otherwise properly dispose of the equipment after the equipment is taken out of service.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.71 (7) of the statutes is created to read:

2 16.71 (7) The department, any other designated purchasing agent under sub.
3 (1), and each authority other than the University of Wisconsin Hospitals and Clinics
4 Authority, may not purchase covered electronic equipment, as defined in s. 287.17
5 (1) (a), produced by a vendor that has violated s. 287.17 (3).

6 **SECTION 2.** 16.72 (2) (f) of the statutes is amended to read:

7 16.72 (2) (f) ~~In~~ Except as provided in par. (g), in writing specifications under
8 this subsection, the department, any other designated purchasing agent under s.

BILL**SECTION 2**

1 16.71 (1), and each authority, other than the University of Wisconsin Hospitals and
2 Clinics Authority, shall incorporate requirements relating to the recyclability and
3 ultimate disposition of products and, wherever possible, shall write the
4 specifications so as to minimize the amount of solid waste generated by the state,
5 consistent with the priorities established under s. 287.05 (12), and to minimize the
6 amount of hazardous waste generated by the state. All specifications under this
7 subsection shall discourage the purchase of single-use, disposable products and
8 require, whenever practical, the purchase of multiple-use, durable products.

9 **SECTION 3.** 16.72 (2) (g) of the statutes is created to read:

10 16.72 (2) (g) In writing specifications under this subsection pertaining to
11 covered electronic equipment, as defined in s. 287.17 (1) (a), the department, any
12 other designated purchasing agent under s. 16.71 (1), and each authority, other than
13 the University of Wisconsin Hospitals and Clinics Authority, shall incorporate terms
14 requiring the vendor to take possession of or otherwise properly dispose of the
15 covered electronic equipment after the covered electronic equipment is taken out of
16 service by the department, designated purchasing agent, or authority, as applicable.

17 **SECTION 4.** 16.75 (1) (a) 1. of the statutes, as affected by 2003 Wisconsin Act 33,
18 is amended to read:

19 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
20 materials, supplies, equipment, and contractual services to be provided to any
21 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
22 (6), (7), (8), (9), and (10m) and ss. 16.71 (7), 16.73 (4) (a), 16.751, 16.754, 16.964 (8),
23 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest
24 responsible bidder, taking into consideration life cycle cost estimates under sub.
25 (1m), when appropriate, the location of the agency, the quantities of the articles to

BILL

1 be supplied, their conformity with the specifications, and the purposes for which they
2 are required and the date of delivery.

3 **SECTION 5.** 20.370 (2) (hg) of the statutes is created to read:

4 20.370 (2) (hg) *Producer responsibility for electronic waste.* All moneys
5 received under s. 287.17 (6) and (14) for the cost of administering the electronic waste
6 program under ss. 287.07 (5) and 287.17.

7 **SECTION 6.** 287.07 (5) of the statutes is created to read:

8 287.07 (5) **ELECTRONIC DEVICES.** Beginning on January 1 of the first year that
9 begins at least 365 days after the effective date of this subsection [revisor inserts
10 date], no person may dispose of any of the following in a solid waste disposal facility:

11 (a) A television, computer monitor, or other video display device.

12 (b) A computer, including a portable computer.

13 (c) A printer.

14 (d) An optical scanner.

15 (e) A mobile telephone.

16 (f) A rechargeable battery from a mobile telephone or other portable electronic
17 device.

18 **SECTION 7.** 287.17 of the statutes is created to read:

19 **287.17 Producer accountability for electronic waste. (1) DEFINITIONS.**

20 In this section:

21 (a) "Covered electronic equipment" means any of the following:

22 1. Televisions, computer monitors, and other video display devices.

23 2. Computers, including portable computers.

24 3. Printers.

25 4. Optical scanners.

BILL

1 5. Mobile telephones.

2 6. Any other kind of electronic equipment specified by the department under
3 sub. (12).

4 (b) “Covered electronic waste” means covered electronic equipment that has
5 been taken out of service or has been relinquished for recycling or disposal but has
6 not been recycled or finally disposed of. “Covered electronic waste” does not include
7 covered electronic equipment that has been donated for reuse or sold for reuse.

8 (c) “Electronic equipment” means equipment that requires electric current or
9 electromagnetic fields to function and that contains a circuit board.

10 (cm) “Historic covered waste” means covered electronic equipment that was
11 first sold at retail before the effective date under sub. (2) and that has become
12 electronic waste, the producer of which is in business on the effective date under sub.
13 (2).

14 (d) “Orphan covered waste” means covered electronic equipment that was first
15 sold at retail before the effective date under sub. (2) and that has become electronic
16 waste, the producer of which is not in business on the effective date under sub. (2).

17 (e) “Producer” means a person, other than a person that remanufactures and
18 resells covered electronic waste, that does any of the following:

19 1. Manufactures and sells covered electronic equipment under its own brand.

20 2. Manufactures and sells covered electronic equipment without affixing a
21 brand.

22 3. Resells covered electronic equipment manufactured by others under the
23 person’s own brand.

24 (f) “Program” means the actions that are taken to carry out a plan approved
25 under sub. (4).

BILL

1 (g) “Recycling” means processing waste materials to prepare them to be used
2 for the same or a different use. “Recycling” does not include burning waste with or
3 without energy recovery.

4 (h) “Reuse” means to use covered electronic equipment or a component of
5 covered electronic equipment for its original use.

6 (2) EFFECTIVE DATE. The effective date for subs. (3) to (14) is the first day of the
7 25th month beginning after the effective date of this subsection [revisor inserts
8 date].

9 (3) PLAN. (a) Except as provided under sub. (13), no later than the first day of
10 the 6th month beginning after the effective date under sub. (2), a producer whose
11 covered electronic equipment is sold in this state shall submit to the department a
12 plan that includes all of the following:

13 1. Provisions, designed to achieve the performance requirements in sub. (7) (a),
14 under which the producer finances the collection, transportation, and reuse,
15 recycling, treatment, or disposal, in a manner that is consistent with all
16 requirements under state law, of the producer’s covered electronic equipment first
17 sold at retail after the effective date under sub. (2) that is discarded in this state.

18 2. Provisions, designed to achieve the performance requirements in sub. (7) (b),
19 under which the producer finances the collection, transportation, and reuse,
20 recycling, treatment, or disposal, in a manner that is consistent with all
21 requirements under state law, of the producer’s share, as determined under sub. (7)
22 (c), of historic covered waste and orphan covered waste.

23 3. Provisions to ensure compliance with the worker protection requirements in
24 sub. (7) (d) and (e).

25 4. Provisions for meeting the labeling requirements in sub. (8).

BILL

1 5. Provisions for meeting the consumer education requirements in sub. (9).

2 6. Provisions for meeting the requirements for providing information to
3 recyclers in sub. (10).

4 7. A description of actions that will be implemented by the producer if the
5 provisions under subd. 1. or 2. fail to achieve the performance requirements in sub.
6 (7) (a) or (b).

7 8. Documentation, such as contracts, letters of intent, or memoranda of
8 understanding, that all persons whose participation is needed to implement the
9 provisions under subds. 1. and 2. are willing to participate.

10 9. One of the following:

11 a. Information concerning the number of the producer's televisions sold in this
12 state during each of the 10 years before the year in which the producer submits the
13 plan and information concerning the number and type of the producer's computers,
14 mobile telephones, and other pieces of covered electronic equipment sold in this state
15 during each of the 5 years before the year in which the producer submits the plan.

16 b. A statement that the producer prefers to have the department estimate
17 under sub. (7) (c) the sales of the producer's covered electronic equipment in this
18 state.

19 10. Provisions that ensure all of the following:

20 a. That covered electronic waste collected under the plan that contains a
21 substance listed in sub. (15) (a) 1. to 8. and that is not in working order is not exported
22 to any country that is not a member of the Organization for Economic Cooperation
23 and Development.

24 b. That covered electronic waste collected under the plan that contains a
25 substance listed in sub. (15) (a) 1. to 8. and that is in working order is not exported

BILL

1 to any country that is not a member of the Organization for Economic Cooperation
2 and Development unless the producer or a person participating in the producer's
3 program certifies to the department that the covered electronic waste is in working
4 order and is destined for direct reuse.

5 11. Provisions to ensure that opportunities and locations for collection of
6 covered electronic waste are convenient for all persons in this state.

7 (b) A producer may not include in a plan under par. (a) a requirement that
8 persons who wish to discard covered electronic equipment pay a fee, at the time that
9 the covered electronic equipment is relinquished, to discard the covered electronic
10 equipment, but may require those persons to deliver covered electronic equipment
11 to a collection point.

12 (c) A producer may provide for a person other than the producer to implement
13 portions of a plan under par. (a) and may provide for implementation of portions of
14 a plan jointly with other producers.

15 (4) REVIEW OF PLAN. The department shall review a plan submitted under sub.
16 (3) within 3 months of its submission to determine whether the plan complies with
17 the requirements of that subsection. Within 30 days after completing its review, the
18 department shall notify a producer of any deficiencies in the producer's plan. If an
19 original or modified plan complies with the requirements of sub. (3), the department
20 shall approve the plan. If a producer fails to remedy deficiencies in the producer's
21 plan by a deadline set by the department, the department shall disapprove the plan
22 and no person may sell the producer's covered electronic equipment in this state.

23 (5) IMPLEMENTATION. Upon approval under sub. (4) of a producer's plan, the
24 producer shall begin to implement the plan. A producer shall fully implement its
25 plan no more than 12 months after the department approves the plan under sub. (4).

BILL**SECTION 7**

1 (6) PROOF OF FINANCIAL RESPONSIBILITY. Except as provided under sub. (13), no
2 person may sell a producer's covered electronic equipment in this state beginning on
3 the first day of the 12th month beginning after the effective date under sub. (2) or on
4 the first day of the 2nd month beginning after the approval of the producer's plan
5 under sub. (4), whichever is earlier, unless the producer files with the department
6 a surety bond or other form of financial assurance acceptable to the department in
7 an amount equal to \$300,000 or 10 percent of the dollar amount of the sales of the
8 producer's covered electronic equipment in this state in the year before the producer
9 files the bond, whichever is greater, established in favor of or made payable to the
10 department to cover costs incurred because of any violation by the producer of the
11 requirements of this section.

12 (7) PERFORMANCE REQUIREMENTS. (a) To achieve the performance requirements
13 for a producer's covered electronic equipment that is sold at retail after the effective
14 date under sub. (2) and that is discarded in this state, a producer must demonstrate
15 all of the following:

16 1. That, no later than the first day of the 24th month beginning after approval
17 of the producer's plan under sub. (4), the number of pieces of the producer's covered
18 electronic equipment sold at retail after the effective date under sub. (2) that are
19 collected through the producer's program annually equals at least 50 percent of the
20 number of pieces of the producer's covered electronic equipment that are sold at
21 retail in this state annually and that the program annually results in the reuse or
22 recycling of at least 50 percent of the components and materials contained in the
23 covered electronic equipment that is collected.

24 2. That, no later than the first day of the 48th month beginning after approval
25 of the producer's plan under sub. (4), the number of pieces of the producer's covered

BILL

1 electronic equipment sold at retail after the effective date under sub. (2) that are
2 collected through the producer's program annually equals at least 75 percent of the
3 number of pieces of the producer's covered electronic equipment that are sold at
4 retail in this state annually and that the program annually results in the reuse or
5 recycling of at least 75 percent of the components and materials contained in the
6 covered electronic equipment that is collected.

7 3. That, no later than the first day of the 60th month beginning after approval
8 of the producer's plan under sub. (4), the number of pieces of the producer's covered
9 electronic equipment sold at retail after the effective date under sub. (2) that are
10 collected through the producer's program annually equals at least 90 percent of the
11 number of pieces of the producer's covered electronic equipment that are sold at
12 retail in this state annually and that the program annually results in the reuse or
13 recycling of at least 95 percent of the components and materials contained in the
14 covered electronic equipment that is collected.

15 (b) To achieve the performance requirements for historic covered waste and
16 orphan covered waste, a producer must demonstrate all of the following:

17 1. That, no later than the first day of the 24th month beginning after approval
18 of the producer's plan under sub. (4), the amount of historic covered waste and
19 orphan covered waste collected through the producer's program annually equals at
20 least the producer's share, determined under par. (c), of 2 kilograms per resident of
21 this state and that the program annually results in the reuse or recycling of at least
22 the producer's share of 1.5 kilograms of the historic covered waste and orphan
23 covered waste.

24 2. That, no later than the first day of the 60th month beginning after approval
25 of the producer's plan under sub. (4), the amount of historic covered waste and

BILL**SECTION 7**

1 orphan covered waste collected through the producer's program annually equals at
2 least the producer's share, determined under par. (c), of 4 kilograms per resident of
3 this state and that the program annually results in the reuse or recycling of at least
4 the producer's share of 3.5 kilograms of the historic covered waste and orphan
5 covered waste.

6 (c) The department shall determine each producer's share for the purposes of
7 par. (b) based on the producer's market share of sales of covered electronic
8 equipment. If a producer does not provide the information under sub. (3) (a) 9. a.,
9 the department shall increase its estimate of the producer's market share by 10
10 percent, and adjust its estimates of the market shares of producers who provide that
11 information accordingly. The department may adjust its determinations of market
12 share annually.

13 (d) A producer shall include in its plan submitted under sub. (3) provisions to
14 ensure that employers of workers who perform activities necessary to collect,
15 transport, reuse, recycle, treat, or dispose of covered electronic waste under the
16 producer's program protect the health and safety of those workers by doing all of the
17 following:

18 1. Providing to the department of workforce development evidence of
19 compliance with state and federal occupational safety and health requirements.

20 2. Performing monitoring of the employers' facilities for all of the substances
21 under sub. (15) (a) 1. to 8. and reporting the results of the monitoring to the
22 department of workforce development every 3 months.

23 3. Performing human health monitoring of all of the workers, including blood
24 testing for lead, ^{and compounds containing} bromine, chlorine, and mercury ~~compounds~~, and reporting the

BILL

1 results of the monitoring to the department of workforce development every 3
2 months.

3 (e) A producer shall include in its plan submitted under sub. (3) provisions to
4 ensure that prison labor is not used in this state to collect, transport, reuse, recycle,
5 treat, or dispose of covered electronic waste under the producer's program unless all
6 of the following apply:

7 1. The prisoners are provided with compensation equivalent to market wages
8 for the work performed.

9 2. The prisoners are afforded protections that are at least equal to those
10 provided under this state's occupational health and safety laws and rules, in addition
11 to the protections under par. (d).

12 (8) LABELING. Beginning on the first day of the 12th month beginning after the
13 date on which a producer's plan is approved under sub. (4), no person may sell the
14 producer's covered electronic equipment in this state unless the equipment is labeled
15 with the following information or is accompanied by written material to be provided
16 to the user of the equipment that contains the following information:

17 (a) A description of which of the substances under sub. (15) (a) 1. to 8. are
18 contained in the covered electronic equipment and of the parts that contain those
19 substances.

20 (b) A description of the prohibitions in s. 287.07 (5).

21 (c) A toll-free telephone number or the address of an Internet site that users
22 of covered electronic equipment can use to obtain information and instructions about
23 discarding the covered electronic equipment through the producer's program.

BILL**SECTION 7**

1 **(9) CONSUMER EDUCATION.** A producer shall include in a plan submitted under
2 sub. (3) provisions for educational activities that are designed to ensure that users
3 of covered electronic equipment understand all of the following:

4 (a) The prohibitions in s. 287.07 (5).

5 (b) The potential effects on human health and the environment of the
6 substances listed in sub. (15) (a) 1. to 8. and the dangers of improper disposal of
7 covered electronic equipment.

8 (c) The available options for discarding covered electronic equipment,
9 including those under the producer's program.

10 (d) The role of users of covered electronic equipment in achieving the reuse,
11 recycling, and other proper disposal of covered electronic equipment.

12 **(10) INFORMATION FOR RECYCLERS.** A producer shall include in a plan submitted
13 under sub. (3) provisions for providing, to persons who recycle or disassemble the
14 producer's covered electronic waste, information that is needed to ensure that the
15 recycling or disassembly is conducted in a manner that protects worker health and
16 safety and that is environmentally sound. In the plan, a producer shall commit itself
17 to providing, to persons who recycle or disassemble the producer's covered electronic
18 waste, the information required by this subsection for a new model of covered
19 electronic equipment immediately upon the introduction of the new model.

20 **(11) REVIEW OF PROGRAM.** (a) Within 12 months of approval of its plan and
21 annually thereafter, a producer shall submit a report that demonstrates whether the
22 producer's program is consistent with the approved plan and, for reports submitted
23 after the performance requirements under sub. (7) (a) and (b) apply, whether the
24 producer has achieved the performance requirements. In its report, a producer shall

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1 provide documentation to show whether its program has resulted in the export of
2 covered electronic waste that is inconsistent with sub. (3) (a) 10.

3 (b) The department shall review each report under par. (a) within 6 months of
4 its submission. Within 3 months after completing its review, the department shall
5 notify a producer of any deficiency in its program. If a producer fails to remedy any
6 deficiencies in its program by a deadline set by the department, the department shall
7 notify the producer that its program is disapproved and no person may sell the
8 producer's covered electronic equipment in this state.

9 (c) 1. No later than 20 months after the approval of a producer's plan under sub.
10 (4), the producer shall submit to the department a proposal for the design and
11 implementation of independent polling of awareness of the producer's program
12 among residents of this state. A group of producers may satisfy the requirement in
13 this subdivision through a joint submission. The department shall notify a producer
14 of any deficiencies in the producer's proposal. If the department determines that an
15 original or modified proposal will accurately measure awareness of the producer's
16 program, the department shall approve the proposal. If a producer fails to remedy
17 any deficiencies in the producer's proposal by a deadline set by the department, the
18 department shall disapprove the proposal and no person may sell the producer's
19 covered electronic equipment in this state.

20 2. A producer shall conduct the polling provided for in its proposal approved
21 under subd. 1. No later than 4 months after approval of the proposal, the producer
22 shall report the results of the polling to the department.

23 (d) A producer shall make a report submitted under par. (a) available to the
24 public on the Internet for 3 years after it submits the report and shall allow the
25 department to place a link to the report on the department's Internet site.

BILL**SECTION 7**

1 **(12) ADDITIONAL COVERED ELECTRONIC EQUIPMENT.** The department may
2 promulgate rules specifying kinds of electronic equipment, the disposal of which may
3 be harmful to human health or the environment, in addition to the kinds of electronic
4 equipment in sub. (1) (a) 1. to 5., that are considered to be covered electronic
5 equipment. The department shall specify all of the following in a rule promulgated
6 under this subsection:

7 (a) A date, at least 6 months after the rule is promulgated, by which a producer
8 of the kind of electronic equipment must submit to the department a plan under sub.
9 (3) for the kind of electronic equipment or proposed modifications to add the kind of
10 electronic equipment to a plan previously approved under sub. (4).

11 (b) A date, at least 6 months after the rule is promulgated, by which a producer
12 of the kind of electronic equipment must file with the department proof of financial
13 responsibility under sub. (6) if the producer has not previously filed that proof.

14 (c) A date, at least 12 months after the rule is promulgated, by which a producer
15 of the kind of electronic equipment must implement the program for the kind of
16 electronic equipment.

17 **(13) WAIVER.** A producer may apply to the department for a waiver from the
18 requirements of subs. (3) to (11) if the dollar amount of annual sales in this state of
19 the producer's covered electronic equipment is less than 0.1 percent of the dollar
20 amount of annual sales in this state of all covered electronic equipment. The
21 department may impose conditions on a waiver under this subsection. No person
22 may sell in this state a producer's electronic equipment if the producer violates
23 conditions imposed on a waiver under this subsection.

24 **(14) FEES.** (a) The department shall promulgate rules specifying fees to be paid
25 by producers when they submit plans under sub. (3) and periodic fees to be paid by

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1 producers with approved plans. The department shall base a producer's fees on the
2 amount of the producer's covered electronic equipment sold in this state and shall
3 design the fees to cover the costs of administering this section and s. 287.07 (5).

4 (b) The department may promulgate a rule specifying fees for granting waivers
5 under sub. (13).

6 **(15) RESTRICTIONS ON HAZARDOUS SUBSTANCES IN ELECTRONIC EQUIPMENT.** (a)
7 Except as provided in par. (b), beginning on the first day of the 60th month beginning
8 after the effective date under sub. (2) or, for a substance specified under subd. 8.,
9 beginning on the date specified under par. (c), no person may sell covered electronic
10 equipment in this state that contains any of the following:

11 1. Lead.

12 2. Mercury.

13 3. Cadmium.

14 4. Beryllium.

15 5. Hexavalent chromium.

16 6. Brominated flame retardants.

17 7. Polyvinyl chloride.

18 8. Any other substance specified by the department under par. (c).

19 (b) The department may grant a limited term exemption from the prohibition
20 under par. (a) with respect to a substance if a producer demonstrates to the
21 department that it is technically impossible to substitute a less harmful alternative
22 for the substance. The department shall limit the length of an exemption to ensure
23 that producers have an incentive to identify a less harmful alternative. The
24 department may rescind an exemption when the department determines that it is
25 possible to substitute a less harmful alternative for the substance.

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(c) The department may promulgate rules specifying substances that are harmful to human health or the environment, in addition to the substances in par. (a) 1. to 7., that may not be contained in covered electronic equipment sold in this state. In a rule promulgated under this subsection, the department shall specify a date, at least 6 months after the rule is promulgated, after which covered electronic equipment containing the substance may not be sold in this state.

(16) PENALTIES. Any producer that violates this section may be required to forfeit not more than \$10,000 for each violation. Any person other than a producer that violates this section is not subject to a penalty.

SECTION 8. 287.97 of the statutes is amended to read:

287.97 Penalties. Any person who violates this chapter, except s. 287.07, 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under s. 287.07, 287.08, 287.17, or 287.81, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

(END)

Tradewell, Becky

From: Miller, Mark
Sent: Thursday, February 05, 2004 8:29 AM
To: Miller, Steve
Cc: Heinen, Paul H; Moore, Cynthia G; Tradewell, Becky; Kuhn, Jamie; Zehren, David
Subject: request fiscal estimate in advance of bill introduction, LRB 1238/2.
Importance: High

Mr. Miller,
Please initiate fiscal estimate for LRB1238/2, relating to producer responsibility for electronic waste. This bill is scheduled for public hearing on February 12.
Thank you.

Mark Miller

48th Assembly District

P.O. Box 8953

Madison, WI 53708

Phone 608.266.5342, FAX 608.282.3648

rep.miller@legis.state.wi.us

02/05/2004

Memo

To: Senator ☐ Representative ☒

~~X~~ Miller

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB -1238

Version: "1 2"

Fiscal Estimate Prepared By: (agency abbr.) DOA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 2 / 10 / 2004

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, February 10, 2004 1:59 PM
To: Rep. Miller
Subject: LRB-1238/2 (FE by DOA - attached - for your review)



03-1238feDOA.pdf

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Memo

To: Senator ☐ Representative ☒

Miller

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB **- 1238**

Version: **" / 2 "**

Fiscal Estimate Prepared By: (agency abbr.) **DNR**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: **02 / 12 / 2004**

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Barman, Mike

From: Barman, Mike
Sent: Thursday, February 12, 2004 9:31 AM
To: Rep.Miller
Subject: LRB 03-1238/2 (FE by DNR - attached - for your review)

Importance: High



FE_Miller.pdf